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Letter dated 19 December 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached third report from Palau submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 9 December 2005 from the Permanent Representative of Palau to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Representative of Palau to the United Nations presents his compliments to the Committee and has the honour to submit Palau's third report on Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) Stuart **Beck**
Ambassador
Permanent Representative

Enclosure*

Third report of Palau on resolution 1373 (2001)

Subparagraph 1.1:

The Committee would be grateful to know the status of the enactment of the [anti-terrorism] legislation and receive a copy of said legislation.

The anti-terrorism legislation has been introduced in the Palau Congress, and is currently pending in committee. Please note that that Palau has previously submitted a copy of the legislation, however, for your convenience it is attached to this report as Annex I.

Subparagraph 1.2:

The Committee would appreciate further information from Palau concerning the legislation creating the financial reporting obligation. In particular the Committee would be grateful for further information, as to what criteria are used to decide if transactions are to be considered suspicious.

The legislation provides that those activities that "reasonably appear to be derived from" the perpetration of money laundering activities should be reported.

The Committee would like to know what the penalties are for non-compliance with the requirement to report suspicious financial transactions.

The Money Laundering and Proceeds of Crime Act of 2001 provides that an individual found guilty of failing to report a suspicious financial transaction can be punished by up to two years of imprisonment or a fine not to exceed US $10,000.00.

The Committee would like to know whether non-financial institutions and other intermediaries are also subject to the same reporting requirements.

Yes, Section 19 of the Money Laundering and Proceeds of Crime Act of 2001 provides that any person who professionally advises on operations involving deposits, exchange operations, investments conversions or any other movement of capital is required to report to the Financial Intelligence Unit (FIU) any suspicious transactions in excess of US $10,000.00 and appearing to have an unlawful purpose.

Subparagraph 1.3:

The Committee would appreciate receiving an explanation of the applicable laws, regulations and practices in Palau for identifying persons or entities who a) maintain bank accounts, or on whose behalf bank accounts are maintained.

* Attachments are on file with the Secretariat and are available for consultation.

The provisions of the Money Laundering and Proceeds of Crime Act of 2001 require credit and financial institutions to verify and identify the identity and address of their customer prior to opening of accounts. Such identification can be accomplished through the presentation of an official identification document that is unexpired and bears a photograph or a reasonable alternative. In cases where a natural or legal person is authorized to enter into transactions on behalf of a third party, credit or financial institutions are required to ascertain the identity of both the person and the beneficial owner. Credit or financial institutions are allowed to use any legal and reasonable means to ascertain the identity of the beneficial owner. Legislation requires that identifying information must be recorded by the credit and financial institutions and be kept at the institution for five years after the account has been closed.

Subparagraph 1.4:

The Committee would be pleased to receive a progress report on the enactment of the proposed amendments to the Money Laundering Act regulating alternative money remittance systems.

The proposed amendments to the Money Laundering Act are currently being considered by the Palauan legislature.

Subparagraph 1.5:

Once operating, are the activities of organizations that have charitable, religious or cultural goals regulated in any way? If so, the Committee would appreciate receiving details on the monitoring and regulating of charitable, religious and non-profit organizations.

If such organizations are incorporated they are obligated to file an annual report which requires general financial information as well as information about the officers of these entities.

Subparagraph 1.6:

The Committee would appreciate learning whether Palau's Financial Intelligence Unit (FIU) has sufficient resources (human, financial and technical) to carry out its mandate. Please provide appropriate data.

No, as of now the FIU remains underfunded and undermanned to complete its mandate. While the Government of Palau is committed to making the FIU operational and effective it remains in need of technical assistance to make this possible.

Subparagraph 1.7:

What provisions exist in Palau to deny safe haven to those who finance, plan, support or commit terrorists acts, as required by sub-paragraph 2(c) of UNSC resolution 1373 (2001)? Are there any legal provisions for excluding or expelling terrorists, or those related to them?

The proposed anti-terrorism legislation would bar terrorists from entering Palau.

Subparagraph 1.8:

The Committee would be grateful to know how Palau ensures that there is adequate cooperation and information sharing among the various government agencies that may be involved in investigating the financing of terrorism, as well as with other competent authorities.

To provide for adequate cooperation and information sharing among the various government agencies that may be involved in investigating the financing of terrorism the President of Palau has issued an Executive Order that establishes the Money Laundering Working Group ("Working Group"). The Working Group is designed to coordinate Palau's fight against money laundering and the financing of terrorism and provides for monthly meetings of delegates from the relevant agencies.

Could Palau please provide the Committee with an outline of its policies if any, for sharing relevant information with other States, concerning suspicious transactions or other matters pertaining to the financing of terrorism?

The Money Laundering and Proceeds of Crime Act of 2001 provides that, subject to a reciprocal agreement and upon receiving a request for information or transmission from a counterpart foreign financial intelligence , the FIU may comply with that request within the scope of the agreement so long as such compliance would not violate Palau law. Additionally, subject to a reciprocal agreement, the FIU shall exchange information with counterparts in foreign countries responsible for receiving and processing reports of money laundering provided that such exchanges are governed by confidentiality requirement substantially similar to those required in Palau.

Subparagraph 1.9:

What measures has Palau taken to regulate and monitor possession of these arms?

In an effort to regulate the possession of firearms and ammunition the Government of Palau has criminalized the possession of such weapons. The crime is considered one of the most serious crimes in Palau and, if convicted, carries a mandatory minimum sentence of 15 years in jail. Additionally, possession of ammunition is an additional crime, which carries a mandatory minimum sentence of 5 years in jail.

Subparagraph 1.10:

Section 12(d) of the counterterrorism legislation requires that notice and relevant information be given to any country where the government of Palau has reason to believe that a terrorist offence has or will be committed. What mechanisms does Palau have in place or plan to put in place to be able to gather and disseminate this type of information?

The Proposed counter-terrorism legislation authorizes and encourages relevant Palau officials to share and disclose intelligence information relating to terrorism and terrorist organizations and to provide early warning of such matters to the competent law enforcement authorities to any state that is a member of the United Nations, the Pacific Islands Forum, or that is a signatory to an international terrorism convention in respect to which Palau is also a party.

Subparagraph 1.11:

The Committee would appreciate receiving copies or detailed outlines of the following acts: a) The Mutual Assistance Act, b) the Foreign Evidence Act, c) Transnational Extradition Act, d) any other bilateral/multilateral extradition treaties to which Palau is a party.

For a copy of the Mutual Assistance Act please see Annex II, for a copy of the Foreign Evidence Act please see Annex III, and for a copy of the Transnational Extradition Act please see Annex IV. At present, the Republic of Palau is a party to an extradition agreement with the United States.

Subparagraph 1.12:

The Committee would be pleased to receive a progress report on Palau's accessions to the International Convention on the Protection of Nuclear Material.

Palau has not yet acceded to the International Convention on the Protection of Nuclear Material; however, it hopes to do so in the future.